

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

KEVIN GUAY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 1:09-cv-217-DBH
	)	
THOMAS BURACK, et al.,	)	
	)	
Defendants.	)	

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LORRAINE GUAY	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 1:09-cv-253-DBH
	)	
THOMAS BURACK, et al.,	)	
	)	
Defendants	)	

**ORDER AFFIRMING THE RECOMMENDED  
DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed her Recommended Decision (Docket No. 46) on February 23, 2010. Plaintiff Lorraine Guay filed her Objection to the Recommended Decision (Docket No. 48) on March 9, 2010. Plaintiff Kevin Guay filed his Objection (Docket No. 49) on March 15, 2010. Defendants filed their Responses to Plaintiffs' Objections to the Recommended Decision (Docket No. 50 & 51) on March 19, 2010, and March 22, 2010, respectively.

I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the

Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.

Accordingly, it is **ORDERED** :

- 1.) The Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**.
- 2.) I further **ORDER** that Defendants Burack and Ayotte's Motions to Dismiss (Docket No. 15 & 32) are **GRANTED** and Plaintiffs' complaints against Burack and Ayotte are hereby **DISMISSED**.
- 3.) I further **ORDER** Defendants Concord Police Department, Sean Ford, and City of Concord's Motions to Dismiss (Docket No. 16 & 33) are **GRANTED-IN-PART** and Plaintiffs' complaints against these defendants are dismissed with the exception of the following:
  - a.) Kevin Guay's state tort claim for malicious abuse of process against Detective Ford and his employer, Concord/Concord Police Department;
  - b.) Kevin and Lorraine Guay's Fourth Amendment constitutional claim against Sean Ford in his personal capacity.
- 4.) Resolution of the defense of judicial estoppel is deferred pending further action by the remaining parties.

March 23, 2010

/s/ D. Brock Hornby  
U.S. District Court Judge